

# PANE & PANE ASSOCIATES, INC.

June 9, 2010

**MEMO TO:** California Bus Association

**FROM:** Josh Pane and Donna Wetterer Pane  
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**RE:** Legislative Update: Week of June 7<sup>th</sup>

**BUDGET UPDATE:** Yes, the news is bad and the budget deficit is still around \$20 billion and counting - and the Legislature and the Governor have three separate plans to deal with it as this column goes to press. There's the Governor's plan mad up of mostly cuts; the Assembly plan that once again raids the bottle bill fund; and the Senate's plan. Note that the Assembly and Senate plans are both "Democrat Plans" and the Republicans haven't put anything forward except "No New Taxes". Below is a brief outline of these three radically different versions of the 2010-11 budget now on the table, all of which are just starting points for discussion:

**Governor's Plan:** The Governor's no new-taxes budget would eliminate all welfare grants, reduce K-12 education funding and drastically reduce the remainder of the social services and health safety net for millions of poor Californians. Specifically he eliminates the CalWORKS welfare-to-work program; eliminates In-Home Supportive Services program; eliminates Healthy Families program for children's health care; and reduces state employee pay for an additional 5%. Other cuts are included for a total of about \$12.4 billion in cuts with no new revenue. This, of course, is unacceptable to the Dems in the Legislature who has responded with their own proposals outlined below. The Governor's response to the Legislature's proposals of new taxes and borrowing is that they simply "kick the can down the road."

**Senate Plan:** The Senate plan will extend, for two more years, several of the temporary tax increases passed last year that are due to expire soon, but not the sales tax. Specific tax increases of \$4.9 billion in this plan include: a suspension of the corporate tax breaks scheduled to begin January 1, 2011, including a suspension of net operating losses for two years and eliminating the ability to carry losses for two years; raises the VLF from 1.15% to 1.5% starting July 1, 2010; extends a 0.25% income tax surcharge set to expire December 31, 2010; and increases the state's alcohol tax by adding inflation factor from current 1991 levels to the present.

**Assembly Plan:** Just when you thought things couldn't get any stranger, the Assembly has done the un-thinkable. The Assembly plan would borrow \$9.2 billion from Wall Street by "securitizing" revenue that now goes into two special state funds, one being the fund THAT FINANCES THE BEVERAGE CONTAINER RECYCLING PROGRAM, thereby creating a "Jobs and Economic Stability Fund" in hopes that this will eliminate the Governor's proposed cuts in state spending for another year. This would cost the beverage container recycling fund around \$600 million annually so they have come up with a proposed new tax on oil production to backfill the recycling fund each year. (This is actually something that the Governor proposed two years ago.) The Assembly Dems plan to use various sales tax shifts to get around the two-thirds vote requirement to pass this oil severance tax by a majority vote. The Governor's Office says this

plan contains no real spending cuts and no reforms, only legal gymnastics for majority vote tax increases.

**June 4<sup>th</sup> was the deadline for passing bills out of the House of Origin. Below is the list of bills that are still alive and those that did not pass have been moved to the “Dead Bill” list at the end of this update.**

## **PRIORITY BILL LIST**

**AB 569 (Emmerson-R) meal periods: transportation industry  
(A-5/25/10) Sponsor: UPS Staff: Teresa Trujillo (916) 319-2063**

**Summary:** Existing law prohibits, subject to certain exceptions, an employer from requiring an employee to work more than 5 hours per day without providing a meal period and, notwithstanding that provision, authorizes the Industrial Welfare Commission to adopt a working condition order permitting a meal period to commence after 6 hours of work if the order is consistent with the health and welfare of affected employees. This bill would exempt from these provisions employees in a construction occupation, commercial drivers in the transportation industry, and employees in the security services industry employed as security officers if those employees are covered by a valid collective bargaining agreement containing specified terms, including meal period provisions. It would specify that its provisions do not affect the requirements for meal periods for certain other employees or employers.

**STATUS: Senate Labor & Industrial Relations on June 23<sup>rd</sup>.**

**AB 744 (Torrico-D) Transportation: toll lanes: Express Lane Network (A-7/15/09) Sponsor:  
Metropolitan Transportation Commission (MTC) Staff: Ryan Spencer (916) 319-2020**

**Summary:** This bill would authorize the Bay Area Toll Authority to acquire, construct, administer, and operate a Bay Area Express Lane Network on state highways within the 9 Bay Area counties pursuant to a development plan recommended by the Bay Area Express Lane Network Project Oversight Committee, which the authority would be required to establish. The bill would authorize the authority to establish the fee structure for use of the express lanes and would require a public hearing in that regard. The bill would authorize the authority to determine the types of vehicles that may use the lanes. The bill would provide for agreements between the authority and the Department of Transportation and the Department of the California Highway Patrol. The bill would require revenues from the express lanes to be deposited in the Bay Area Express Lane Network Account, which the authority would be required to create. The bill would authorize the authority to issue revenue bonds for the express lane program. The bill would specify the use of revenues in the account, including the net revenues remaining after expenses and obligations, including revenue bond obligations, for the express lane program are satisfied. The bill would provide for certain payments by the authority to the Department of Transportation and the Department of the California Highway Patrol relative to their responsibilities with regard to the express lane program, and would continuously appropriate the amount of those payments to those agencies for those purposes. The bill would require the Sunol Smart Carpool Lane Joint Powers Authority, the Alameda County Congestion Management Agency, and the Santa Clara Valley Transportation Authority to enter into agreements with the Bay Area Toll Authority by January 1, 2011, to provide for the transfer of their rights and obligations relative to HOT lane projects to the Bay Area Toll Authority.

**STATUS: Senate Appropriations Suspense File.**

**AB 1670 (Beall-D) State Highway Routes 82 and 130: relinquishment. (A-4/5/10)  
Sponsor: City of San Jose Staff: Kim Tran (916) 319-2024**

**Summary:** Existing law gives the Department of Transportation full possession and control of all state highways. Existing law describes the authorized routes in the state highway system and

establishes a process for adoption of a highway on an authorized route by the California Transportation Commission. Existing law also authorizes the commission to relinquish certain state highway segments to local agencies. This bill would authorize the commission to relinquish to the City of San Jose specified portions of State Highway Routes 82 and 130, under certain conditions.

**STATUS: Senate Rules for committee assignment.**

**AB 1772 (Mendoza-D) vehicles; group axle weight exemption: idle reduction technology (A-4/7/10)**

**Sponsor: CTA Staff: Minnie Santillan (916) 319-2056**

**Summary:** Existing law authorizes, with specified exemptions, a city, county, or city and county to prohibit the use of a street by a vehicle exceeding a maximum gross weight limit the city, county, or city and county has established according to prescribed requirements by ordinance. Existing law authorizes the department, and a city or county satisfying specified criteria, to establish the gross vehicle weight that a bridge or other structure will sustain safely. This bill would authorize a vehicle subject to those provisions that is equipped with idle reduction technology to exceed the group axle weight limit by the weight of the idle reduction technology, as defined, or not more than 400 pounds, whichever is less. The bill would require a vehicle operator, upon request, to provide proof that the idle technology is fully functional at all times and the excess weight is not for any purpose other than for the use of the idle reduction technology. Because a violation of this requirement would be a crime, this bill would impose a state-mandated local program.

**STATUS: Senate Rules for committee assignment.**

**AB 1928 (Torlakson-D) Vehicles: commercial driver's license: suspension or revocation. (A-4/7/10) Sponsor: author Staff: Whitney Staniford (916) 319-2011**

**Summary:** This bill would add to those specified circumstances where (1) the person was driving a vehicle that requires a commercial driver's license and the person had 0.04 percent or more, by weight, of alcohol in his or her blood, or (2) the person was on probation for a violation of certain driving under the influence of alcohol or drugs offenses and had a blood-alcohol concentration of 0.01 percent or more, by weight, of alcohol in his or her blood, as measured by a preliminary alcohol screening test or other chemical test .

**STATUS: Senate Public Safety on June 22<sup>nd</sup>.**

**AB 2144 (Gilmore-R) Commercial motor vehicles: driver compliance (A-4/14/10)**

**Sponsor: DMV Staff: Matt Knox (916) 319-2030**

**Summary:** This bill, requested by the DMV, would allow compliance with Federal Motor Carrier Safety Administration reviewed rulemaking of the Commercial Driver License Program. The Motor Carrier Safety Improvement Act of 1999 mandates these revisions. They are designed to enhance the safety of commercial motor vehicle operations by ensuring that only safe drivers operate commercial motor vehicles.

**STATUS: Senate Transportation & Housing.**

**AB 2572 (Bradford-D) Charter-party carriers of passengers (A-5/5/10)**

**Sponsor: Greater California Livery Association Staff: Crystal Kuezada (916) 319-2051**

**Summary:** This bill expands the definition of a “charter-party carrier” to include any person, or entity engaged in providing transportation service where the vehicle is rented and is operated by a for-hire driver. The bill also changes the certificate renewal fees and imposes additional enforcement provisions to allow the PUC to exercise enforcement techniques.

**STATUS: Senate Energy, Utilities & Communications Committee on June 15<sup>th</sup>.**

**CBA Position: SUPPORT**

**SB 990 (Dutton-R) Employment: meal periods (A-3/25/10) Sponsor: To be determined. Staff: Anissa Nachman (916) 651-4031**

**Summary:** This bill would revise the statutory requirements for the provision of meal periods to specify that the requirements apply only to employees subject to the meal period provisions of an order of the IWC. The statutory requirements for providing the meal periods would be revised to specify that a meal period based on working more than 5 hours in a workday is required to be provided before the employee completes 6 hours of work, unless the existing waiver provision is invoked. The waiver provision for the 2nd meal period would be changed to provide an exception for different provisions within IWC wage orders in effect as of January 1, 2009, and to permit the employer and employee to agree to waive either the first or the 2nd meal period if the employee otherwise is entitled to 2 meal periods. The bill also would specify conditions under which on-duty meal periods are permitted rather than meal periods in which the employee is relieved of all duty. The meal period provisions of a valid collective bargaining agreement would be required to be implemented for covered employees rather than the statutory requirements. The bill would require that orders of the IWC be interpreted in a manner consistent with this section, and would require the Department of Industrial Relations to amend and republish specified IWC wage orders to be consistent with the revised meal period requirements. Because this bill would create a new crime, it would impose a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason. This bill would declare that it is to take effect immediately as an urgency statute.

**STATUS: Senate Labor & Industrial Relations; no date set.**

**SB 1208 (Strickland-R) Vehicle registration: biennial (I-2/18/10) Sponsor: Author**

**Staff: Terry Yoshida (916) 651-4019**

**Summary:** This bill would permit the Director of the Department of Motor Vehicles to establish a biennial vehicle registration period option for registrants. The Director of the Department of Motor Vehicles would be permitted to reassign a vehicle to the biennial registration period upon the request of the registrant. If a person chooses the biennial vehicle registration option, he or she would be entitled to a 5% reduction in basic registration fees.

**STATUS: Senate Transportation and Housing; no date set.**

**SB 1245 (Simitian-D) High-occupancy vehicle lanes (A-4/22/10) Sponsor: Author**

**Staff: Ryan Ojakian (916) 651-4011**

**Summary:** This bill would provide that a vehicle that meets the applicable occupancy level for a high-occupancy vehicle for use of an HOV lane, including a HOT lane, shall not be charged a toll. The bill would also provide that an increase in the vehicle occupancy level for an HOV lane may only be implemented if the department determines that the change will maximize person throughput with respect to the affected highway.

**STATUS: Assembly Desk for committee assignment.**

**SB 1475 (Simitian-D) Vehicles: electronic wireless communications devices: prohibitions (A-5/13/10) Sponsor: Author Staff: Ryan Ojakian (916) 651-4011**

**Summary:** This bill enhances the penalties related to using a wireless communications device while operating a vehicle, prohibits bicyclists from using a hand held communications device while riding a bicycle, establishes an education program regarding the dangers of cell phone use and text messaging while driving, and adds dangers of cell phone use and text messaging to the list of items that the Department of Motor Vehicles must include in an examination for a driver's license.

**STATUS: Assembly Desk for committee assignment.**

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**DEAD BILLS  
(As of June 9, 2010)**

**AB 1672 (Jeffries-R) State Air Resources Board; election of board members (I-1/27/10)**

**Sponsor: Author Staff: Andrew Shedlock (916) 319-2066.**

**Summary:** Existing law establishes in the California Environmental Protection Agency the State Air Resources Board, which is responsible for control of emissions from motor vehicles and is designated the air pollution control agency for all purposes set forth in federal law. Existing law requires the state board to consist of 11 members appointed by the Governor, with the consent of the Senate, and specifies the qualifications of those members. This bill, commencing with the 2012 statewide general election, would require the members of the state board to be elected by district voters. The bill would require the state board, by January 1, 2012, to draw district boundaries in accordance with prescribed criteria, for the purpose of the election of state board members. The bill would prescribe requirements for the election of the members of the state board and would make other conforming changes.

**STATUS: Failed passage in Assembly Natural Resources on March 22<sup>nd</sup>.**

**AB 2299 (Blakeslee-R) Air Resources: The State Air Resources Board. (A-4/13/10) Sponsor: Not yet identified. Staff: Sally Kay (916) 319-2033**

**Summary:** This bill would require the state board to complete and place into the rulemaking record a related impacts analysis for a proposed rule, as provided. The bill would authorize a person to request the state board to submit the related impacts analysis for external peer review in accordance with specified requirements. The state board would be authorized to assess a fee on a person making a request for external peer review to cover the administrative costs of processing that request.

**STATUS: Held on Assembly Appropriations Suspense File**

**AB 2311 (Mendoza-D) CA Global Warming Solutions Act of 2006: transportation fuels: review. (A-4/6/10) Sponsor: Western States Petroleum Association. Staff: Armando Chavez (916) 319-2056**

**Summary** This bill would require the state board to review any regulation adopted by the state board that establishes greenhouse gas emission requirements or standards for transportation fuels and adopt a report relating to this review, as provided. The bill would require the state board, based on that report, to either readopt the regulation without revision or revise the compliance schedule or schedules in the regulation, or other provisions of the regulation, to avoid unreasonable impacts on California fuel supplies or prices, competitiveness of California businesses relative to out of state or international competitors, unreasonable impacts on the California economy, and unreasonable impacts on California small businesses.

**STATUS: Held on Assembly Appropriations Suspense File**

**AB 2469 (B. Berryhill-R) State Air Resources Board: dispute resolutions (A-4/15/10)**

**Sponsor: None yet known Staff: Adam Struck (916) 319-2026**

**Summary:** Existing law authorizes the State Air Resources Board to regulate pollution from primarily vehicular sources, and designates the state board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. This bill would require the state board to adopt a process to resolve disputes regarding any person's ability to comply with specified air pollution requirements.

**STATUS: Held on Assembly Appropriations Suspense File.**

**AB 2691 (Hall-D) CA Global Warming Solutions Act of 2006: fees. (I-2/19/10)**

**Sponsor: Chevron**

**Staff: Felipe Lopez ((16) 319-2052**

**Summary:** The Act authorizes the Air Resources Board to adopt market-based compliance mechanisms, as defined, meeting specified requirements to be used for compliance with those regulations. This bill would prohibit a state agency, city, county, city and county, air pollution control or air quality management district, or another political subdivision of the state from imposing a greenhouse gas emissions fee, whether emissions-based or otherwise, on a source of greenhouse gas emissions that is subject to either a market-based compliance mechanism or a fee regulation adopted by the state board.

**STATUS: Held in Assembly Natural Resources**

**SB 908 (Wyland-R) meal period; exemptions. (I-1/27/10) Sponsor: National Armored Car Association Staff: Aaron Bone (916) 651-4038**

**Summary:** Existing law prohibits, with specified exceptions, an employer from requiring any employee to work during a meal or rest period mandated by an applicable order of the Industrial Welfare Commission. Existing law requires, with specified exceptions, employers to provide meal and rest periods to employees during work periods of specified duration. This bill would exempt from these provisions an employee in the transportation industry whose work places him or her inside an armored car in shifts during a workday.

**STATUS: Held in Senate Labor and Industrial Relations**

**SB 1120 (Dutton-R) CA Global Warming Solutions Act of 2006: market-based compliance mechanisms. (I-2/17/10)**

**Summary:** This bill would prohibit the state Air Resources Board from implementing a market-based compliance mechanism that includes caps on greenhouse gas emissions and trading among participants unless it is a part of a legally enforceable regional or federal program.

**STATUS: Senate Environmental Quality (E.Q.); Failed passage on April 5<sup>th</sup>.**

**SB 1182 (Calderon-D) Employment: meal periods. (I-2/18/10) Sponsor: Author**

**Staff: Rocky Rushing (916) 651-4030**

**Summary:** This is currently a “spot bill” making a minor change in the existing Labor Code relating to the meal period statute. Senator Calderon has been the author of previous “meal period” bills trying to find a compromise between labor and business.

**STATUS: Awaiting committee assignment.**

**SB 1208 (Strickland-R) Vehicle registration: biennial (I-2/18/10) Sponsor: Author**

**Staff: Terry Yoshida (916) 651-4019**

**Summary:** This bill would permit the Director of the Department of Motor Vehicles to establish a biennial vehicle registration period option for registrants. The Director of the Department of Motor Vehicles would be permitted to reassign a vehicle to the biennial registration period upon the request of the registrant. If a person chooses the biennial vehicle registration option, he or she would be entitled to a 5% reduction in basic registration fees.

**STATUS: Held in Senate Transportation and Housing;**

**SB 1238 (Calderon-D) Diesel vehicles and engines. (I-2/19/10) Sponsor: CA Trucking Association Staff: Adam Gray (916) 651-4030**

**Summary:** Existing law requires the state board, every 3 years, to review enforcement of specified diesel emission control regulations and develop a strategic plan for consistent, comprehensive, and fair enforcement of these regulations. Existing law requires the state board to consult with air pollution control and air quality management districts and the public in developing the plan. This bill would require the state board to also consult with affected businesses.

**STATUS: Held in Senate E. Q.**

**SB 1263 (Wyland-R) CA Global Warming Solutions Act of 2006: inoperative. (I-2/19/10)**

**Sponsor: Author Staff: Scott Seekatz (916) 651-4038**

**Summary:** This bill would make the provisions of the California Global Warming Solutions Act of 2006, and any regulation adopted pursuant to the act, inoperative.

**STATUS: Held in Senate E. Q.**

**-end-**